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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
SOUTHERN REGION OF THE CENTRAL DIVISION**

CRYSTAL LAGOONS U.S. CORP. AND
CRYSTAL LAGOONS TECHNOLOGIES
INC.,

Plaintiffs,

vs.

DESERT COLOR MANAGER LLC,
DESERT COLOR ST. GEORGE LLC, AJ
CONSTRUCTION, INC., TRI-STATE
VENTURES, LLC d/b/a CAREFREE
HOMES – UTAH, COLE WEST HOME
LLC, HOLMES HOMES, INC., SULLIVAN
HOMES LLC, and PACIFIC AQUASCAPE
INTERNATIONAL, INC.,

**[PROPOSED] PATENT CASE
SCHEDULING ORDER**

Case No. 2:20-cv-00851-BSJ

Judge Bruce S. Jenkins

Jury Trial Demanded

<p>Defendants</p> <p>DESERT COLOR MANAGER LLC, DESERT COLOR ST. GEORGE LLC, and PACIFIC AQUASCAPE INTERNATIONAL, INC.,</p> <p>Counterclaim Plaintiffs</p> <p>vs.</p> <p>CRYSTAL LAGOONS U.S. CORP. AND CRYSTAL LAGOONS TECHNOLOGIES INC.,</p> <p>Counterclaim Defendants.</p>	
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Pursuant to Fed. R. Civ P. 16(b), the Court received the Attorney Planning Report filed by counsel on July 19, 2021. The Court schedules the following matters. The parties may not modify the times and deadlines set forth herein without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED UNLESS EXPRESSLY STATED TO THE CONTRARY

1.	PRELIMINARY MATTERS/DISCLOSURES	DATE
a.	Plaintiff's Accused Instrumentalities disclosure due [LPR 2.1]	7/2/2021
b.	Plaintiff's Rule 26(a)(1) initial disclosure due [LPR 2.2]	7/2/2021
c.	Defendant's Rule 26(a)(1) initial disclosure due [LPR 2.2]	7/16/2021
d.	Rule 26(f)(1) Conference held and discovery begins [LPR 1.2, 1.3]	7/12/2021

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|----|--|------------|
| e. | Attorney Planning Meeting Report and Proposed Scheduling Order submitted [LPR 1.2] | 7/19/2021 |
| f. | Plaintiff serves Initial Infringement Contentions [LPR 2.3] | 7/30/2021 |
| g. | Defendant serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions
<i>If no infringement claims</i> , Plaintiff serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions [LPR 2.4, 2.6] | 8/13/2021 |
| h. | Final Infringement Contentions [LPR 3.1] | 12/27/2021 |
| i. | Final Unenforceability and Invalidity Contentions [LPR 3.1] | 1/10/2022 |
| j. | Final Non- Infringement Contentions [LPR 3.2] | 1/24/2022 |

2.	DISCOVERY LIMITATIONS	NUMBER
a.	Maximum number of depositions ¹ by Plaintiffs	10
b.	Maximum number of depositions ² by Defendants	10
c.	Maximum number of hours for each deposition (unless extended by agreement of parties)	7
d.	Maximum interrogatories ³ per side	25

¹ Excluding depositions of experts. The parties also agree that each Rule 30(b)(6) deposition will count as a single deposition regardless of the number of persons designated to testify about the Rule 30(b)(6) deposition topics.

² Excluding depositions of experts. The parties also agree that each Rule 30(b)(6) deposition will count as a single deposition regardless of the number of persons designated to testify about the Rule 30(b)(6) deposition topics.

³ An interrogatory or multiple interrogatories seeking the basis of a party's affirmative defenses, infringement contentions, or invalidity contentions counts as one interrogatory regardless of the number of affirmative defenses alleged or the number of infringed or invalid claims alleged. A party may object to the time of discovery as set forth in LRP 1.7.

- e. Maximum requests for admissions⁴ per side 50
- f. Maximum requests for production per side 200
- g. The Parties shall handle discovery of electronically stored information in accordance with their agreement as stated in the Attorney Planning Meeting Report

The parties shall handle a claim of privilege or protection as trial preparation material asserted after production pursuant to the Courts' Standard Protective Order or in accordance, any stipulated modification thereto, or as may be agreed hereafter by the parties or ordered by the Court.

The parties agree that documents produced in *Crystal Lagoons U.S. Corp. v. Cloward H2O LLC* (Civil Action No.: 19CV00796) can be used in the present case (*Crystal Lagoons U.S. Corp et al v. Desert Color Manager et al* Civil Action 2:20-cv-00851).

- | | DATE |
|---|---------------------------------------|
| h. Deadline to serve written discovery before claim construction [R. 34]: | 2/4/2022 |
| i. Close of fact discovery before claim construction [LPR 1.3(a)]: | 3/7/2022 |
| j. Disclosure of intent to rely on opinions of counsel and materials in support [LPR 1.3(c)]: | 7 days after claim construction order |
| k. Deadline to file motion for additional discovery [LPR 1.3(b)]: | 14 days after claim |

⁴ Excluding Requests for Admission to authenticate documents.

construction
order

3.	AMENDMENT OF PLEADINGS/ADDING PARTIES⁵	DATE
a.	Last day to file motion to amend pleadings	9/27/2021
b.	Last day to file motion to add parties	9/27/2021
4.	CLAIM CONSTRUCTION PROCESS	DATE
a.	Parties exchange proposed claim terms and claim constructions for construction [LPR 4.1(a)]	2/7/2022
b.	Reach agreement to submit no more than 10 terms for construction [LPR 4.1(b)]	2/14/2022
c.	Parties file Cross-Motions for Claim Construction and Joint Appendix [LPR 4.2(a) & (b)]	3/14/2022
d.	Parties file Simultaneous Responsive Claim Construction Briefs [LPR 4.2(c)]	4/11/2022
e.	Joint Claim Construction Chart & Joint Status Report Due [LPR 4.2(f)]	4/18/2022
f.	Tutorial for Court [LPR 4.4]	4/25/2022

⁵ Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

g.	Parties exchange exhibits [LPR 4.3]	7 days before claim construction hearing
h.	Claim Construction Hearing ⁶ [LPR 4.3]	TBD
5.	EXPERT DISCOVERY	DATE
a.	Parties bearing burden of proof [LPR 5.1(b)]	28 days after claim construction order
c.	Counter reports [LPR 5.1(c)]	56 days after claim construction order
d.	Close of expert discovery [LPR 5.2]	91 days after claim construction order
6.	DISPOSITIVE MOTIONS	DATE
a.	Deadline to file dispositive motions required to be filed with claim construction [LPR 6.2]	3/14/2022
b.	Deadline to file opposition to dispositive motions filed with claim construction [LPR 6.2]	4/11/2022
c.	Deadline to file reply to dispositive motions filed with claim construction [LPR 6.2]	4/25/2022

⁶ Parties should contact the Court to set the date for the Claim Construction Hearing

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|----|--|---|
| d. | Deadline for filing dispositive or potentially dispositive motions [LPR 6.1] | 119 days after claim construction order |
| e. | Deadline for filing partial or complete motions to exclude expert testimony | 179 days after claim construction order |

7.

SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION/ OTHER PROCEEDINGS

- | | DATE |
|--|--|
| a. Likely to request referral to a Magistrate Judge for settlement conference: | No |
| b. Likely to request referral to court-annexed arbitration: | No |
| c. Likely to request referral to court-annexed mediation: | No |
| d. Last day to seek stay pending reexamination [LPR 3.5] | 1/22/2022 |
| e. The parties will complete private mediation/arbitration by: | N/A |
| f. Evaluate case for Settlement/ADR on | 30 days after claim construction order |
| g. Settlement probability: | fair |

Plaintiff is directed to file a new scheduling order within 14 days of ruling on claim construction. The Court will set trial deadlines in that order or through a case management conference.

8.

OTHER MATTERS

All Motions in Limine should be filed well in advance of the Final Pretrial Conference.

Signed _____, 2021.

BY THE COURT:

Honorable Bruce S. Jenkins
United States District Judge